IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.372 OF 2004

The State of Maharashtra .. Appellant.
Vs.
Uttam Bhanudas Kondabale & Ors. .. Respondents.

Mr.A.S.Shitole A.P.P. for the State.
Mr.I.J.Manshramani for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 5th JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. This appeal is directed against the Judgment and Order dated 28.8.2003, acquitting the respondents/accused who were charged and tried for the offence punishable under section 3(a) of Railway Property Unlawful Possession Act.

3. The property allegedly stolen by the accused was 5 plywood sheets. A perusal of the judgment and other material placed before me clearly shows that the prosecution has miserably failed to bring home the guilt of the accused. The evidence of P.W.1 and P.W.2, as considered by the learned Judge at paragraph 21 and 22 of the judgment, was not found to be sufficient to connect the accused with alleged

offence. The prosecution has also failed to examine the material witnesses such as constable - Rathod and watchman to connect the accused persons with the alleged offence. It is against this backdrop the trial Court held that no offence has been proved beyond reasonable doubt. I don't see any reason or ground to take different view in the matter on the basis of material on record. In any case no interference can be made in the order of the trial Court merely because different view, as tried to be demonstrated by the learned A.P.P., can be taken. Considering the overall facts and circumstances of the case and keeping in view the reasons recorded by the trial Court on appreciation of the evidence on record, in my opinion, the impugned judgment cannot be said to be unreasonable and perverse. The view taken by the trial Court is reasonably possible. In the circumstances, the application for leave to file appeal against the judgment of acquittal is rejected.

(D.B.Bhosale, J.)